

CHAPTER 20
NONCREDIT PROPERTY INSURANCE
IN CONSUMER CREDIT TRANSACTIONS

61—20.1(537) Statement of purpose. This chapter governs the sale of noncredit property insurance associated with consumer credit transactions. Pursuant to rule-making authority under Iowa Code section 537.6117, the administrator of the Iowa Consumer Credit Code finds that noncredit property insurance may be sold to consumers as directed by the requirements of this chapter.

61—20.2(537) Definitions.

“Consumer credit transaction” is as defined in Iowa Code section 537.1301(11).

“Credit property insurance” means protection or indemnity against creditor risk of loss in connection with a specific consumer credit transaction secured by collateral. The definition of “credit property insurance” is limited to property insurance insuring personal property used as collateral or security in a consumer credit transaction. Subject to the requirements in the federal Truth-in-Lending Act, 16 CFR Section 444 (1991), and the Iowa consumer credit code, credit property insurance is a permissible additional charge in a consumer credit transaction.

“Disclosure form” means the document which discloses the total cost of the noncredit insurance, contains the notice to consumers required in subrule 20.6(2), paragraph “a,” and includes the signature space for the borrower to purchase noncredit property insurance.

“Noncredit property insurance” means insurance protecting a borrower against risk or loss regarding personal property that is not used as collateral or security in any consumer credit transaction. For purposes of this chapter, noncredit property insurance includes insurance which is not credit property insurance sold on automobiles covering physical damage or theft of the car, but excluding insurance covering personal liability for use of the car. Noncredit property insurance may be sold to borrowers only as authorized under this chapter.

“Other credit products” means consumer credit services offered by a creditor including, but not limited to, consumer loans, consumer leases and consumer credit sales.

61—20.3(537) Exclusions. This chapter does not apply to insurers who do not engage in consumer credit transactions or to creditors who engage in consumer credit transactions only for the purpose of selling insurance products.

61—20.4(537) General conditions of sale. Noncredit property insurance may be sold in consumer credit transactions only when the sole purpose of the transaction is to finance the sale of noncredit property insurance. This single purpose requirement is satisfied when the amount financed for the transaction includes only the premium cost for the noncredit property insurance and applicable fees or taxes. Noncredit property insurance premiums may not be included within the amount financed of a consumer credit transaction that includes consumer loans or consumer credit sales for items other than the purchase of noncredit property insurance. Noncredit property insurance may also be purchased by cash, check or credit card so long as the sale of the product meets all applicable requirements of this chapter. The credit sale of noncredit property insurance premiums must also meet applicable requirements of Iowa Code section 537.3207, “Form of insurance premium loan agreement.”

61—20.5(537) Sale prohibition. No verbal or written sales efforts regarding noncredit property insurance may be made until the initial loan or credit transaction has been closed and the entire proceeds of the other credit products have been received by the consumer. In addition, creditors may not prepare documents for the sale of noncredit property insurance until the entire proceeds of the other credit products have been received by the borrower.

Should a borrower independently inquire about the purchase of noncredit property insurance, the creditor may inform the borrower that the company offers such insurance for sale, but that the terms of insurance may not be discussed until after the sale of other credit products has been completed.

This prohibition does not prevent creditors from clearly disclosing to consumers that credit property insurance insures only a portion of the personal property owned by a borrower.

61—20.6(537) Disclosures. Creditors may offer for sale noncredit property insurance only after the following disclosures have been made.

20.6(1) Initial disclosures. Creditors must comply with the following initial disclosure requirements prior to preparing any written documents related to the sale of noncredit property insurance.

a. The creditor must first inquire about existing property insurance held by the borrower. Should the borrower indicate that he or she already owns property insurance covering the property at issue, all sales efforts must cease and the creditor may not sell the borrower any noncredit property insurance products. For the purpose of this rule, credit property insurance insuring collateral used to secure any ongoing loan or credit sale transaction is considered existing property insurance and the creditor is forbidden to sell additional noncredit property insurance to insure such property.

b. The creditor must inform the borrower that the purchase of this insurance is completely voluntary and is unrelated to any other loan or credit sale transactions which might have occurred between the creditor and borrower.

c. The creditor must explain the insurance coverage for every available noncredit insurance plan the borrower is eligible for that the creditor is authorized to sell. The creditor must also separately disclose the costs of the insurance, including both the premium cost and the finance charge applied. If more than one credit insurance plan is available to the borrower, then the borrower must be informed of the nature and costs of each such plan.

20.6(2) Written disclosures. After the initial disclosures in subrule 20.6(1) have been made, the creditor may prepare final documents for the sale of noncredit property insurance. The written disclosures required by this rule must be made on the front side of the disclosure form.

a. The disclosure form must contain the following notice in 12-point bold-faced type. The heading must be in uppercase.

**NOTICE TO CONSUMERS:
PURCHASE OF THIS INSURANCE IS VOLUNTARY**

1. The creditor is offering to sell you insurance on your personal property that is not used as collateral or security on a loan.

2. You do not need to purchase this insurance to obtain a separate loan from a creditor and loan approval will not depend on whether you buy this insurance.

3. Under Iowa law a creditor may not offer to sell you this property insurance until you have received your loan.

4. If you already have property insurance the creditor cannot sell you additional property insurance that duplicates the coverage of your existing policy.

b. The creditor must clearly and conspicuously disclose the premium cost of the insurance and any finance charges associated with the premium. Disclosures made in accordance with the Truth-in-Lending Act meet this requirement.

c. The creditor must maintain at least one copy of the disclosure form for the period required by the record retention requirements of the Truth-in-Lending Act. The consumer must receive at least one copy of the disclosure form and all other insurance documents referred to or associated with the sale.

61—20.7(537) Borrower signature. The creditor must obtain the borrower's signature on the disclosure form. The signature space must come after the disclosures required in subrule 20.6(2).

61—20.8(537) Additional insurer forms. In addition to the disclosure form, the creditor may use other noncredit property insurance forms considered necessary provided they are not inconsistent with the disclosure form or this chapter and, if applicable, have been approved by the insurance commissioner.

61—20.9(537) Permitted finance charges. The credit sale of noncredit property insurance pursuant to this chapter is classified as a consumer credit sale as defined by the Iowa consumer credit code. Finance charges assessed on noncredit insurance premiums may not exceed the rate authorized in Iowa Code section 537.2201. “Finance charge for consumer credit sales not pursuant to open-end credit.”

61—20.10(537) Restrictions on sale to homeowners. Noncredit property insurance insuring the contents of a home may not be sold to borrowers who own a residence, unless the creditor, prior to the sale, has in the loan file documentation showing that the borrower does not already have household contents insurance.

61—20.11(537) Insurance division requirements. In addition to complying with this chapter and the Iowa consumer credit code, creditors must also comply with all applicable statutes and regulations enforced by the Iowa insurance division. These requirements include, but are not limited to: agent licensing requirements, premium rates, loss ratios, refund formulas, reporting requirements, and policy disclosure and readability provisions. Compliance with this chapter does not relieve the creditor from complying with all relevant requirements of the insurance division.

61—20.12(537) Rule violations. The failure to comply with this chapter, or the use of sales practices which are inconsistent with this chapter, is a separate violation of Iowa Code section 537.4101 (excess charges in insurance) and Iowa Code section 714.16 (consumer fraud Act). In addition, the inclusion of noncredit property insurance premiums within the sale or loan of other credit products is considered an excess charge for purposes of Iowa Code sections 536.13(6), 537.5201(3) and 537.6113. Applicable defenses available to creditors under the Iowa consumer credit code are equally available to creditors under this rule.

61—20.13(537) Severability. If any provision or clause of this chapter or its application to any person or situation is held invalid, the invalidity shall not affect any other provision or application of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of this chapter are declared severable.

These rules are intended to implement Iowa Code sections 537.2501 and 537.6117.

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CHAPTER 21

Reserved